bring himself within the requirements of the statute and pursue that remedy: that where such remedy is not given no action of trespass will lie for an eviction of a tenant holding over, although necessary force is used. That if the landlord used violence in gaining possession or ousts the tenant at sufferance with unnecessary force an action of trespass will lie. And that for the injuries inflicted on the person of the tenant, and damage done to his personal property a landlord is responsible. This is in harmony with the law as laid down in the later English cases.

W. DRAYTON.

Philadelphia.

Circuit Court, Southern District of Ohio.

McCOY *v.* C., I., ST. L. & C. RAILROAD COMPANY.

Railroad corporations are *quasi* public corporations, dedicated to the public use. In accepting their charters they necessarily accept them with all the duties and liabilities imposed upon them by law. Thus a *quasi* public trust is created which clothes the public with an interest in the use of railroads, and the latter can be controlled by the courts to the extent of the interest of the public therein.

In the absence of some statute providing another and different remedy, courts of equity have jurisdiction to compel railroad corporations to discharge the duties imposed upon them by law; and persons injured by the wrongful action or non-action of such corporations may seek redress by injunction, and are not bound to resort to proceedings in *mandamus* or to an action at law for damages.

A railroad company cannot bind itself to deliver to a particular stock-yard all live stock coming over its line to a certain point, but it is bound to transport over its road and deliver to all stock-yards at such point, reached by its tracks or connections, all live stock consigned, or which the shippers desire to consign to them, upon the same terms and in the same manner as under like conditions it transports and delivers to their competitors; and the performance of this duty may be compelled by injunction at the suit of the proprietor of the stock-yards discriminated against.

Where foreign corporations engage in business in a state whose laws provide that they may be summoned by process served upon an agent in charge thereof, they are "found" in the district in which such agent is doing business, within the meaning of the act of Congress of March 3d 1875 (18 St. at Large, 470), and may be served in that manner in suits brought in the United States courts.

IN EQUITY. Motion for preliminary injunction.

Ramsey & Matthews, for complainant.

Hoadley, Johnson & Colston, for defendant, Cincinnati, Indianapolis, St. Louis & Chicago Railroad Company.

Paxton & Warrington and *Stallo, Kittredge & Shoemaker*, for defendant, United Railroads Stock-Yards Company.

The opinion of the court was delivered by

BAXTER, C. J.—The facts in this case are few and simple. After averring that he is a citizen of Kentucky, and that the United Railroads Stock-Yards Company is an Ohio corporation, and that the defendant, the Cincinnati, Indianapolis, St. Louis and Chicago Railroad Company, is a corporation organized under the laws of Ohio, Indiana and Illinois, the complainant charges that he is lessee of certain stock-yards, referred to in his bill, situated on the line of the Cincinnati & Baltimore Railroad Company's road, in Hamilton county, Ohio; that his yards are connected with said railroad by a suitable switch; that he is there engaged in the business of receiving, feeding, housing and shipping live stock; that the Cincinnati, Indianapolis, St. Louis & Chicago Railroad Company's road connects with the Cincinnati & Baltimore Company's road two miles south of complainant's yards; and that the said defendant is, by contract, in the use of that portion of said Cincinnati & Baltimore Railroad Company's road lying between said point of junction and complainant's yards, over which it is carrying on the business of a common carrier of live stock, making regular deliveries to and receiving stock from, its co-defendant, loaded in cars standing on the track. He furthermore alleges such receipt and delivery of stock in cars on the track is necessary to the successful prosecution of his business, but that, in disregard of the obligations imposed on it by law, said defendant has entered into a contract with the United Railroads Stock-Yards Company, its co-defendant, whereby it has covenanted to make said United Railroads Stock-Yards Company's yards its depot for the receipt and delivery of all live stock carried by it to and from Cincinnati, and obliged itself, in so far as it could lawfully do so, to deliver all live stock carried by it to, or received for shipment from Cincinnati to and from its co-defendant, and that, relying on said contract as a valid obligation and a sufficient justification of its action in the premises said defendant unlawfully and wrongfully refuses to receive stock from, or deliver stock to complainant, except through the United Railroads Stock-Yards Company's yard, whose yards, it appears, adjoin the complainant's yards.

Complainant thereupon prays for an injunction to restrain said defendant from so discriminating against it, and to compel it to receive and make deliveries of stock to him in the same manner and

on as favorable terms as it receives from and delivers to complainant's said competitor.

The application for a preliminary injunction came on for argument before me at Knoxville on the twelfth of July 1882, when the Cincinnati, Indianapolis, St. Louis & Chicago Railroad Company filed its plea denying the jurisdiction of this court, because, as the plea avers, it is not a corporation of Ohio, as it alleged, but that it is a corporation under and in virtue of the laws of the state of Indiana alone. It does not, by its plea, deny service of process or raise any question in regard to its regularity or legal sufficiency. But the counsel insisted in argument that as defendant was an Indiana corporation, and a citizen of that state, it could not be lawfully served with process in this jurisdiction, and that it was, therefore, not legitimately before the court.

We need not stop to demonstrate that the question argued by counsel is broader than the plea, inasmuch as if such question was raised by the plea I would not hesitate to overrule it.

We concede that corporations—mere legal entities—can only legally exist within the territorial limits of the sovereignty creating them; that they must dwell in the places of their creation, and can not migrate to other sovereignties. But it is as equally well settled that they can do business, if not inhibited by law from so doing, in foreign states and countries, and that they may be there sued in relation to the same: 1 Redfield Railways, p. 63, § 4.

Hence, if it were conceded that the defendant is an Indiana corporation, as alleged in its plea, it appears that it owns and operates a railroad in Ohio, where its president resides and its principal office is located, and that it is there, by legislative permission, engaged in the business of a railroad carrier. If so, it is liable to be served with process in this jurisdiction. "This court," says Judge FORCE, of the Superior Court of Cincinnati, in a case recently decided by him, "has, by statute, jurisdiction of an action against a foreign corporation when such corporation can be found within the city. A corporation can be found where it can be served with a process according to law. A foreign corporation can be served with a summons according to law (in Ohio) by service upon a managing agent." And about the same time Mr. Justice MATTHEWS said, in a similar case, pending in this court, that "where foreign corporations establish an agency in a state whose laws provide (as in this) that they may be summoned by process served upon an

agent, they are 'found' within the district in which such agent is doing business, within the meaning of the act of Congress of March 3d 1875, and may be served in the same manner in suits brought in the United States court:" *Mohr & Mohr Distilling Co.* v. *Ins. Co.*, 12 Fed. Rep. 474, and authorities cited in the note thereto. These adjudications are conclusive of the question attempted to be raised in this case. The defendant is duly before the court, and it only remains to be determined how far, if at all, the complainant is entitled to relief upon the facts herein stated.

Railroads are potential agencies, constitute a very considerable part of the national wealth, and deserve to be fully protected in all their chartered rights. But while they are essential to the continued prosperity and to the further development of the varied resources of this great country, they are susceptible, when manipulated in the interest of selfish schemes, of being perverted to the most unjust and oppressive uses. They necessarily monopolize all inland carrying business, and if unrestrained can, by unjust discriminations, favor some individuals and communities to the very serious detriment of others. Hence the frequent efforts made to control them in the interests of individuals and communities. By establishing or abandoning a depot they can depreciate or enhance the value of private property, and by extending or withholding facilities increase the profits or inflict losses on all persons engaged in commercial or other pursuits dependent on their favor. An advance of two cents per bushel on the grain annually carried from the grain producing west to the eastern cities, with a corresponding increase upon all other classes of freight, would impose a tax upon the industry of the country exceeding in amount the annual levies made by Congress for the support of the national government. If permitted, they can so regulate their freight charges as to exact from each locality dependent upon them the utmost farthing which the circumstances of each particular case and the absence of wholesome competition enable them to impose. For instance, where competition is sharp, they can carry passengers and freight over their entire lines for less than they charge for short intermediate distances, simply because in the one case they are controlled by competition, and in the other, in absence of such competition, they have it in their power to extort the utmost farthing which such intermediate business is capable of bearing. Those who have them in charge can organize side or collateral business enterprises and so

manipulate their roads as to seriously cripple their competitors and add to their own profits. These are but some of the possibilities incident to railroad management. Nevertheless, with all their capacity for injustice, they cannot be dispensed with. But are their duties and obligations to individuals and to the public to be measured by the judgment of the interested parties, using them to further their own selfish schemes, or by the courts? And if by the latter, to what extent may the courts go in supervising their actions and in restraining abuses? These are grave questions, which we will now endeavor to answer.

The great and fundamental principle on which we rest the conclusions hereinafter stated is the conceded fact that railroad corporations are *quasi* public corporations dedicated to the public use. It is upon this idea that they have been invested with the power of eminent domain—the authority to take and appropriate private property to their use by paying a just compensation therefor. They have been created for the purpose of exercising the functions and performing the duties of common carriers. Their duties and liabilities are defined by law. In accepting their charters they necessarily accept them with all the duties and liabilities annexed; that is to say, they undertake to construct the roads contemplated by their several charters; to keep them in good condition; equip them with suitable rolling stock and safe machinery; employ skilled and trustworthy laborers; provide suitable means of access to and egress from their trains; erect depots and designate stopping places wherever the public necessities require them; supply to the extent of their resources, necessary and adequate facilities for the transaction of all the business offered; deal fairly and impartially with their patrons; keep pace with improvements in railroad machinery, and adapt their service to the varying necessities and improved methods of doing business.

The granting and acceptance of such charter creates a *quasi* public trust, and clothes the public with an interest in the use of railroads, which can be controlled by the public to the extent of the interest granted therein: *Munn* v. *Illinois*, 94 U. S. 126 to 134, inclusive. But how and by whom can this *quasi* public trust be administered?

The defendant insists that relief cannot be given by this court. The contention is that all persons injured in their property or persons by the wrongful action or non-action of a railroad corporation

can have adequate relief in a court of law by a suit to recover damages for the wrong done, or by *mandamus* to compel a fulfilment of its corporate obligations. These remedies undoubtedly exist; but is there no other and better remedy for the redress of such wrongs? Suppose defendant should entirely suspend its operations and refuse to run trains upon its road, it would be in default, and everybody injured thereby could sue and recover the specific damages sustained. But is the public without redress, and are the courts without power to interfere, at the instance of one or more individuals, and protect the public as well as individuals from the threatened deprivation of the benefits and advantages intended to be provided by the building of the road? Or suppose the defendant should ignore the claims of some populous neighborhood, whose business justified and whose necessities required depot accommodations for the receipt and discharge of passengers and freight, and in this way force the people of such locality to transact their business through a depot eight or ten miles distant—is there no redress except through a multiplicity of suits to be prosecuted at law by each injured party, or such relief as could be obtained through the tardy and inadequate process of *mandamus?* These remedies exist. But they are not the only means of relief. The defendant, by accepting its charter, assumed certain obligations in favor of the public in the nature of a *quasi* public trust, and the duty of enforcing the execution of this trust, in the absence of some statute providing another and different remedy, devolves upon courts of equity. All matters of confidence and trust are within their peculiar cognizance. They may restrain or command, remove a trustee and substitute another in his stead, or execute the trust themselves, as the exigencies of each particular case may require. Their jurisdiction has been well established and defined. No court, I presume, exercising equity powers would hesitate, upon proper application, to command the defendant, in the contingencies supposed, to provide a depot or operate its road, for the obvious reason that the road was authorized and built for and dedicated to the public, and the public has a right to use it; and if the officers representing the corporation were to refuse to execute the trusts reposed in them, in the particulars mentioned, or in any other respect, it would be the imperative duty of the courts of equity, on due application, to interfere, and by an exercise of their extraordinary powers compel a faithful observance and discharge of all of its obligations. If these courts can lawfully

do this, their supervising authority over such corporations to the extent of the public interest in them is vindicated; that is, they can compel them to keep their roads, rolling stock and machinery in good condition; force them to establish and maintain depots at suitable points where the business and public necessities require them; provide suitable means of access to and egress from their trains; forbid injurious discriminations; and, to the extent of their means, supply all the facilities for the safe transmission of persons and property contemplated by their charters. Their authority to do this was affirmed and applied in the recent litigation between the express and the railroad companies, in which the railroad companies admitted an obligation to receive, carry and deliver express freight, but contended that they were only bound to do so when the freight to be carried was delivered into their custody to be carried in the usual way at their risk and on their freight trains, to be delivered by them to the consignees. But every court before which the question was argued held otherwise.[1]

In the last of these cases, recently decided by Mr. Justice MILLER and Judge McCRARY at St. Louis, Missouri, the court ordered the railroad company, upon a motion for a preliminary injunction to furnish the express company with suitable freight cars to be attached to its passenger trains for the transportation of its freight in care of its own messengers, and at the rates fixed by the court, thus recognising in the fullest possible manner the authority of the court to supervise and control the action of the railroad company in the public interest.

Now, if it was competent for the court to thus interfere and control the railroad company in a matter of detail in its business affairs, why may I not, if the facts of this case justify relief, compel the defendant railroad company to make deliveries of live stock, consigned to complainant, on the same terms and in the same manner as under like conditions deliveries are made by it to its co-defendant?

The business of receiving, feeding, dealing in and forwarding live stock is legitimate and necessary. To do so on a scale commensurate with the trade of Cincinnati in that line necessitates large expenditures in the erection of buildings and equipment of

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[1] See Southern Express Co. v. Nashville, &c., Railway Co., 20 Am. Law Reg. 590, and note.

suitable yards: and, being both legitimate and useful, everybody engaging in it is entitled to equal facilities in the use of railroads, upon which they are largely dependent for success; for it is obvious if the railroads centering at Cincinnati, or the officials who control them, are permitted to combine and establish a stock-yard as a private enterprise, and by contract made it *the* depot of the roads for the receipt and delivery of all the stock brought to or carried through the city, and withhold like accommodations from their competitors, they can suppress competition, and establish and maintain a monopoly in that particular department of trade, and subject the public to the payment of undue and unreasonable exactions for the services rendered.

I am very clear that no such right exists. Where a railroad company assumes to receive, take care of, water, feed and forward stock as a part of its undertaking to transport them, as it may lawfully do, they are at liberty to select such agencies as they may choose to employ for the purpose, and the exercise of the right is no wrong to any one else. But that is not the question here. The complainant does not complain of defendant's transacting its business through its own agents. Its complaint is that the defendant refuses to deliver stock consigned to his yard to him, except through the yards of co-defendant, and it is against this unauthorized and injurious discrimination that he seeks relief. The two yards are contiguous. They are both connected with the Cincinnati & Baltimore Railroad Company's road (over which the defendant is running its trains) by suitable switches. The railroad defendant can receive stock from and deliver stock to the one as easily as to the other, but refuses to do so. The discrimination is contrary to a sound public policy and injurious to the complainant. It gives to the United Railroad Stock-Yards Company important advantages in the receipt and shipment of stock, over the complainant—an injustice which no railroad company, in the exercise of its *quasi* public functions, ought to be permitted to inflict upon any one engaged in a lawful and necessary pursuit. The power to prevent such an abuse is, as we have already affirmed, vested in courts of equity until the legislature shall provide another and different remedy.

A preliminary injunction, corresponding in its scope with the restraining order heretofore issued, is therefore granted, on complainant's entering into a bond in the penalty of $20,000, with

securities to be approved and accepted by the clerk, conditioned to prosecute the suit with effect, or in the event he fails to do so that he will pay the defendants all such damages respectively sustained by reason of the wrongful suing out of said injunction.

The complaints against carriers which are most common in this country are of railway discriminations in charges. But the law requires not only that common carriers charge reasonable rates, but also that they furnish all persons similarly situated with equal and reasonable facilities and accommodations for transportation. Both in England and in the United States this is common law. But in England it is also a matter of statutory obligation, and application of the principle of equal and reasonable transportation facilities for all persons similarly situated has been most frequent in England. The following are instances:

A railway company may be compelled to run through trains over a continuous line of railways, where its failure so to do occasions public inconvenience. So, if there are two competing companies having lines from A. to B., and one of them has a continuation from B. to C., and this company arranges the departures from B. so as to interfere seriously with the other line, and put the public to inconvenience thereby, and force the traffic to B. over a greater extent of line at a sacrifice of time or cost, the companies will be compelled to operate their lines in connection: *Barret* v. *G. N. & M. Railroad Co.*, 1 Nev. & Mac. 38.

Upon complaint by the lessees of a colliery situated on the N. & B. Railway, at a short distance from its junction with the M. railway to S., that they were prevented sending the traffic from their colliery to S. by the railways of the two companies which formed a direct route, and in consequence had to send it by a circuitous route, it was proved that the two railways formed a continuous line of communication, and that physically there was no difficulty in the traffic of the colliery being carried to S. by the direct route: *Held*, That the applicants were entitled to have their traffic conveyed by any route they pleased, and to use the two railways as if they were one continuous line: *Victoria C. Co.* v. *N. & B. M. Railroad Cos.*, 3 Nev. & Mac. 35. See, also, *James* v. *Taff Vale, &c., Railroad Co.*, 3 Nev. & Mac. 540.

A railway company made an arrangement with W. for the conveyance of passengers to and from their station to the town of K., and admitted his omnibus within the gates of the station, but refused admittance to the omnibus of M., which conveyed passengers to and from the station through the town of K. to more distant places, to which it was the only public conveyance. No special circumstances being shown by the railway company to justify the exclusion of M.'s omnibus, it was compelled to admit M.'s omnibus in the same manner and to the same extent as it admitted other vehicles of a similar description: *Marriott* v. *L. & S. W. Railroad Co.*, 1 Nev. & Mac. 47. But where a railway company agreed with a cab proprietor, in consideration of his paying them 600*l.* per annum, to allow him the exclusive liberty of plying for hire within their station, the court refused to compel the company to admit another cab proprietor, no inconvenience to the public being shown to have arisen from the arrangement: *Beadell* v. *Eastern Co.'s Railroad Co.*, 1 Nev. & Mac. 56. And where a railway company granted exclusive permission to a limited number of fly proprietors to ply for hire within their station, the court refused to compel the admission of another fly proprietor to the station, although it was shown that occasional delay and incon-

venience resulted to the public from the course pursued: *Painter* v. *L. B. & S. C. Railroad Co.*, 1 Nev. & Mac. 58.

The principle deducible from the cases is that there must be a public inconvenience resulting from the discriminative conduct of the company, in order to warrant the interference of the court. An injury to one individual merely will not do.

In *Oxlade* v. *N. E. Railroad Co.*, 15 C. B., N. S. 680; 1 Nev. & Mac. 162, it was decided that there is no obligation on a railway company to carry goods otherwise than according to their profession, and that, therefore, it might restrict its coal traffic to the carriage of coals for colliery owners from the pit's mouth to stations, where such colliery owners have cells or depots appropriated to them for the reception and sale of their coals, and to decline to carry coals from station to station, or for coal merchants—such an arrangement being essential to the regulation of the large traffic in that article, and the company not being common carriers of coal.

A railway company having land adjoining one of their stations, let the whole of it to P., a coal dealer, for the purpose of storing coal brought by their line. P. did not require or actually use the whole of the land for this purpose. W., another coal dealer, applied to the company to provide him on similar terms with land for storing coal, or to let him the part of the land not actually used by P. The company refused so to do. W. then applied for an order to compel the company to desist from allowing P. to store coals on the land, or to give similar facilities to him: *Held*, by BOVILL, C. J., and KEATING, J., that a means for storing coal at the station to which it is sent being necessary for the proper carrying on of the coal trade, the company had no right to grant greater facilities to P. than to W., and that they ought to be restrained from doing so. *Held*, by MONTAGUE SMITH, and BRETT, JJ., that the Railway and Canal Traffic Act only relates to facilities in the receiving, forwarding and delivering of traffic; that the court has no jurisdiction to interfere with matters not relating to these; and that facilities for storing coal after it has been delivered to the consignee do not relate to the receiving forwarding or delivering of traffic, and are not therefore under the control of the court: *West* v. *L. & N. W. Railroad Co.*, L. R., 5 C. P. 622; 39 L. J. C. P. 282; 1 Nev. & Mac. 166.

A railway company which had been in the habit of unloading goods conveyed by them on their railway, by taking them out of the trucks and placing them in or adjacent to the wagons of the consignees, established a new system, under which they declined to allow their servants to unload the goods of C. from their trucks without extra charge. They, however, continued to unload the goods of P., as these, from the smallness of their quantity, were not carried, like the goods of C., in separate trucks, but were mixed with the company's own traffic; and it was therefore for the company's own convenience that they unloaded them from the trucks. The court refused to compel the company to unload the trucks containing C.'s goods, and to deliver such goods to C. by placing the same in or adjacent to his wagons, but it was intimated that if C. had previously complained to the company of their giving an advantage to P. over him in so unloading P.'s goods, and the company had not removed such ground of complaint, then the court would have interfered: *Cooper* v. *L. & S. W. Railroad Co.*, 27 L. J., N. S., C. P. 324; 4 C. B. N. S. 738; 1 Nev. & Mac. 185.

A railway company, with a view to compete with other carriers in the collection and carriage of goods, established receiving offices in various parts of London, from which goods were brought in vans to the railway station. The gates of the station were closed against the

vans of the complainants and other carriers at 6.30 P. M., but the company's own vans were admitted at a much later hour, and the goods brought by them were forwarded by the same night's trains. *Held*, an undue prejudice to complainant: *Palmer* v. *L. & S. C. Railroad Co.*, L. R., 6 C. P. 194; 40 L. J. C. P. 331; 1 Nev. & Mac. 271; see also, *Garton* v. *B. & E. Railroad Co.*, 6 C. B. N. S. 639; 28 L. J. C. P. 306; 1 Nev. & Mac. 218; *Baxendale* v. *L. & S. W. Railroad Co.*, 12 C. B. N. S. 758; 1 Nev. & Mac. 231.

But where A. collected parcels and forwarded them by railway; the railway company refused to admit A.'s vans into their station after 6.30 P. M., but admitted their own vans and those of B. at a later hour with parcels, which they forwarded the same night. The time (6.30 P. M.) fixed by the company as that after which they would not receive goods to be forwarded the same night was reasonable. The company in admitting their own vans later acted *bona fide*, and not with the intention of gaining an undue advantage over other collecting carriers; they admitted B.'s vans in consequence, of having been enjoined so to do. A. sought to compel the company to admit his vans after 6.30 P. M., but the court (WILLES and KEATING, JJ., dissenting); *Held*, that so to admit A.'s vans would interfere with the transport of traffic, and refused the order asked: *Palmer* v. *L. & S. W. Railroad Co.*, L. R., 1 C. P. 588; 35 L. J. C. P. 289; 1 Nev. & Mac. 243.

Lees v. *L. & Y. Railroad Co.*, 1 Nev. & Mac. 352, lays down the general proposition that, in determining whether a preference shown by a railway company to one of its customers is reasonable or unreasonable, regard should be had as well to the general convenience of the railway company with reference to its general traffic as to the benefit and convenience of the public.

Therefore, where a railway company was compelled, by the increase of its business to separate its mineral from its goods traffic at O. station, and transferred the mineral traffic to another station, retaining at O. station only the mineral traffic in favor of the corporation of M., who lighted M. and its suburbs, and whose gas works were close to O. station, communicating therewith by a siding, so that such traffic could be removed at once from O. station without impeding the goods traffic thereat and it was found as a fact that it was a matter of public benefit and convenience that the corporation should be supplied with coal at O. station; that the nature and magnitude of their supplies enabled the railway company to make such special arrangements for passing them through and out of O. station, with less inconvenience to the general and ordinary business thereof than would be caused by carrying for the applicants, it was held, that the preference to the corporation was neither undue nor unreasonable.

A railway company permitted a carrier (expressman), who also acted as superintendent of their goods traffic, to hold himself out as their agent for the receipt of goods to be carried on their line, and his office as the receiving office of the company, and goods were received by him at that place, without requiring the senders to sign conditions which the company required all other carriers (expressmen) who brought goods to their station to sign. *Held*, an undue preference; *Baxendale* v. *B. & E. Railroad Co.*, 11 C. B. N. S. 787; 1 Nev. 1 Mac. 229.

A railway company which employed agents for delivering in a large town goods brought by the railway to the parties to whom they were addressed, arranged within the station the goods to be delivered by these agents and afforded to them other facilities in the use of the station. *Held*, that the company were not compellable to give other carriers,

to whom the goods were sent for delivery to the ultimate consignees, the same privileges in the use of the station: *Pickford* v. *Caledonian Railroad Co.*, 4 Sess. Ca., 3d Ser. 755; I Nev. 1 Mac. 252.

In *Innes* v. *L., B. & S. C. Railroad Co.*, 2 Nev. & Mac. 155, the railway company were given a month in which to provide a station on the road with additional train accommodations and required to book traffic through to London. See, also, *Local Board* v. *L., B. & S. C. Railroad Co.*, 2 Nev. & Mac. 214.

In *The South Eastern Railroad Co.*, v. *Railway Com. & Corp. of Hastings*, 3 Nev. & Mac. 464; Q. B. D. 586; 50 L. J., Q. B. D. 201, the railway commissioners required the company to extend the platform accommodation at H., according to a specified plan to cover over the platforms and part of the carriage yard, to add four waiting rooms of a specified size, to reserve a portion of the station for refreshments, to increase the accommodations for the delivery of tickets, and to increase and improve the accommodation for cattle.

With respect to the station at L., the order of the commissioners required the company to increase and improve the platform and waiting room accommodations, to cover over the bridge, to make fresh openings into and to widen the road of approach to that station.

Held, by the Court of Appeal (reversing the judgment of the Queen's Bench Division), that these matters were within the jurisdiction of the commissioners, but that they had no power peremptorily to order the execution of works according to a specified plan. The general principle was asserted that the commissioners had power to order the company to provide reasonable facilities, but not power to specify particular improvements and plans therefor and to require the company to adopt them. It was asserted that the commissioners had no power to interfere with the discretion of the company in regard to the mode of furnishing reasonable facilities.

Lords SELBORNE and COLERIDGE held that the orders with respect to the platforms and goods yard at H., and the approach road at L., were in excess of jurisdiction; that the orders as to refreshment accommodation and the covering over of platforms, carriage yard and bridge, did not relate to "facilities," but that the orders as to booking office, waiting room, and cattle accommodations, were, as to "facilities," within the meaning of the statute.

BRETT, L. J., held that all the orders except those relating to cattle accommodation and the delivery of tickets at the booking office were in excess of jurisdiction.

In *Local Board* v. *N. E. Railroad Co.*, 3 Nev. & Mac. 306, the inhabitants of the district of N., which was intersected by a line of railway, complained of there being no station in the district, and it was proved that there was no station nearer than at A. on the one side, and the terminal station of H. on the other, the distance from A. to H. being about 4½ miles; that the railway company possessed unoccupied lands in such district, upon part of which they had placed a siding for the delivery of coal, and that there would be no physical or engineering difficulty in using part of such land for the establishment of a station at which traffic of all kinds could be handled.

It was decided that the number of passengers would be so few from such proposed station that the inconvenience to the company and the travelling public would greatly exceed the inconvenience occasioned the few who were compelled to go to A. or H. to take the train. Therefore the court refused to compel the company to put up a station at N.; but the company were required to provide siding accommodations reasonably sufficient for the receipt and delivery in N. of the station to station traffic of the

district, and to give such a service for the delivery of inward traffic in the district, and the removal therefrom of outward traffic as was given under corresponding circumstances to other places. See, also, *S. W. Railroad Co.* v. *Staines Railroad Co.*, 3 Nev. & Mac. 48.

A railway company give only a reasonable facility in running over a foreign line (for example, a shipper's private switches) to collect traffic, properly placed for that purpose, where such line or switches have been properly planned to give the company access to them, and where it has no such line of its own: *Watkinson* v. *Wrexham, &c., Railroad Co.*, No. 1, 3 Nev. & Mac. 5.

As to the obligation of a lessee company to provide cars on the leased line and use private sidings thereof: see *Watkinson* v. *Wrexham, &c., Railroad Co.*, No. 2, 3 Nev. & Mac. 164.

In *Watkinson* v. *Wrexham, &c., Railroad Co.*, No. 3, 3 Nev. & Mac. 446, the company were prohibited from delaying empty coal trucks on their way to the collieries; were required promptly to haul loaded coal trucks from the collieries, and to provide sufficient locomotive power to do so. It was *queried* whether the weighing of coal was a "facility," the company could be compelled to furnish. As to supply of wagons, see, also, *Tharsis, S. & C. Co.* v. *L. & N. W. Railroad Co.*, 3 Nev. & Mac. 455.

A railway company are not required to furnish booking offices for traffic at places off their railway nor to arrange for the conveyance, by road, of goods between such places to the nearest station on their railway: *D. & M. Railroad Co.* v. *M. G. W. Railroad Co.*, 3 Nev. & Mac. 379.

A railway company delivered minerals at T. station, but refused to deliver their damageable traffic consigned to the applicant, and delivered such traffic at L., one mile and a half from T., which was their general goods station for T.

The accommodation at T. station being insufficient to receive all the T. goods traffic, and the railroad company having no power to enlarge it, *Held*, that the applicant was not entitled to have damageable goods delivered at that station. *Semble*, if the accommodation at T. station had been sufficient to receive all traffic similarly sent, the company would have been ordered to deliver damageable goods to the applicant at T. station: *Thomas* v. *N. S. Railroad Co.*, 3 Nev. & Mac. 1.

The C. company were bound to give to the Scottish East coast traffic of the N. B. Ry. Co. using their railway all usual facilities, including so far as might be reasonably required, through carriages, and also any greater facilities which they might grant to any other company in respect to such traffic or of any traffic competitive with it. The C. company ran for the convenience of traffic competitive with the Scottish East coast traffic of the N. B. Company, in one case a saloon sleeping carriage, weighing three tons, and fitted to carry twelve persons, and in another a composite carriage, of which one compartment had sleeping berths for three persons: *Held*, that a Pullman car, weighing twenty-one tons, and to hold twenty-two persons, was so dissimilar in character, both to the saloon and composite carriages, that the N. B. company were not entitled under the above provisions to insist on the forwarding of it by the C. company as a similar facility, nor as a reasonable requirement, unless the N. B. company guaranteed to the C. company a mileage proportion on eight fares: *Caledonian* v. *North British Railroad Co.*, No. 3, 3 Nev. & Mac. 56.

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